



REQUEST FOR QUOTE

1147685

For

Vending Machines and Services

ISSUE DATE: November 14, 2022

SUBMISSION DEADLINE: 3:00 PM on December 05, 2022

The Montgomery County, Department of Correction and Rehabilitation is seeking bids for vending machine services for the correctional facilities. Bids must be returned no later than the date and time listed above. The County **will not** accept bids by fax. If a Bidder is interested in submitting a bid but cannot make the submission deadline, the Bidder must contact the Department of Corrections and Rehabilitation's Contract Administrator to see if an extension may be granted.

The following pages contain the terms, conditions, and scope of services for this Informal Solicitation. No bids will be accepted unless submitted **typewritten or neatly hand printed with block lettering**. Any changes made to the prices bid prior to the opening must be done legibly and initialed by the Bidder making the changes. Should you have questions regarding the specifications / scope of services, please call **Rita Ellis at (240) 777-9776**.

Local Small Business Reserve Program (LSBRP) Notice

INFORMAL (SMALL PURCHASE/MINI-CONTRACT) # 1147685

Vending Machines and Services

This solicitation is reserved for only **application submitted/certified** status local small businesses timely registered with the County's LSBRP. This solicitation thus comes under County Code, sections 11B-17A; 11B-65; 11B-70 and Executive Regulation 21-05AM. These documents can be accessed through the LSBRP web site at (www.montgomerycountymd.gov/LSBRP).

LSBRP criteria are based on a firm's location, ownership status, number of employees and annual revenue amount, submitting a bid/bid constitutes willfully stating your firm is an **application submitted/certified** Local Small Business. Therefore, if you wish to submit a bid/bid for this solicitation adhering to the LSBRP, you must:

1. Submit an application as a LSBRP firm prior to the bid's/bids due date. If your LSBRP status is not **application submitted/certified** in our database prior to the bids/bid's due date and time, then your bid will be deemed non-responsive and rejected or your bid will be deemed unacceptable and removed from consideration. Go to the LSBRP web site (www.montgomerycountymd.gov/LSBRP) and follow the instructions under "Register."
2. After the informal solicitation closes and upon notification by the County, you must provide within three (3) business days the LSBRP documentation of:
 - all of its business location(s) (if more than one),
 - number of employees by location
 - annual gross revenue of the business for the past three fiscal years.(The preferred documents are copy of a lease, Maryland Unemployment Insurance Contribution Report (summary or quarterly), and Financial Statement/Tax Returns. At the discretion of the LSBRP, an alternative type of documents might be accepted.)

If, after receipt of these documents, the LSBRP finds that your firm does not meet the LSBRP requirements, then your bid will be deemed non-responsive and rejected or your bid will be deemed unacceptable and removed from further consideration. For questions, contact the LSBRP (240-777-9913).

Montgomery County, Maryland
Acknowledgment Page

ACKNOWLEDGMENT

The bidder must include a signed acknowledgment that all the terms and conditions of the bid may, at the County's option, be made applicable in any contract issued as a result of this solicitation. Bids that do not include such an acknowledgment may be rejected. Executing and returning (with the bid) the acknowledgment shown below will satisfy this requirement.

The undersigned agrees that all the terms and conditions of this solicitation and bid may, at the County's option, be made applicable in any contract issued as a result of this solicitation.

Business Firm's Typed Name: _____

Printed Name and Title of
Person Authorized to Sign Bid: _____

Signature: _____ Date: _____

NAME AND SIGNATURE REQUIREMENTS FOR BIDS AND CONTRACTS

The correct legal business name of the bidder must be used in all contracts. A trade name (i.e., a shortened or different name under which the firm does business) must not be used when the legal name is different. Corporations must have names that comply with State Law. The bidder's signature must conform to the following:

All signatures must be made by an authorized officer, partner, manager, member, or employee. The signing of this bid or a contract is a representation by the person signing that the person signing is authorized to do so on behalf of the bidder or contractor.

By submitting a bid under this Solicitation, the Bidder agrees that Montgomery County has within 120 days after the due date to accept the bid.

ACKNOWLEDGMENT OF SOLICITATION AMENDMENTS

The Bidder acknowledges receipt of the following amendment(s) to the solicitation:

Amendment Number	Date

SECTION I - INSTRUCTIONS, CONDITIONS AND NOTICES

BID / BID SUBMISSION

Bids must be submitted no later than **3:00 P.M. EST, December 05, 2022**, to: **Rita Ellis, Department of Correction and Rehabilitation, 22880 Whelan Lane, Boyds, MD 20841, or by email at rita.ellis@montgomerycountymd.gov**. Bids submitted after **3:00PM EST 12/05/2022**, by any means (electronically, mail, or in person) are considered late and will not be considered for any award resulting from this solicitation.

All costs incurred in the preparation and submission of bids will be borne by the bidder and shall not be incurred in anticipation of receiving reimbursement from the County.

ACKNOWLEDGMENT

The bidder is to include the signed acknowledgment (page 3) indicating agreement with all the terms and conditions of the solicitation.

BID WITHDRAWAL / MODIFICATION

Bids may be withdrawn or modified upon receipt of a written request received before the time specified for the bid opening date and time. Changes made to the prices bid prior to the opening must be done legibly and initialed by the bidder making the changes. Requests to withdraw or modify a bid received after a bid opening date and time will not be considered.

ERRORS IN BID

- A. Failure of the bidder to thoroughly understand all aspects of the Request for Quote before submitting the bid will not act as an excuse to permit withdrawal of the bid nor secure relief on pleas of error.
- B. The unit price will govern in the event of a discrepancy between the unit price bid and the extended price.
- C. The sum of the extended prices will govern in the event of a discrepancy between the aggregate total bid and the extended prices.
- D. The written words will govern in the event of a discrepancy between the prices written in words and the prices written in figures

AWARD OR REJECTION OF BID

The County reserves the right to accept or reject any or all bids, or portions thereof, to waive minor irregularities and to award the Contract in the best interest of the County. Conditional or qualified bids are subject to rejection. The County reserves the right to reject the bid of a bidder who has previously failed to perform properly or to complete in a timely manner, contracts of a similar nature, or if investigation shows the bidder unable to perform the requirements of the contract.

VERBAL EXPLANATIONS

Verbal explanations or instructions given by a Montgomery County employee to a bidder in regard to this Informal Solicitation will not be binding on the County. Any information given to a bidder in response to a request will be furnished to all bidders as an amendment to this Informal Solicitation, if such information is deemed necessary for the preparation of bids, or if the lack of such information would be detrimental to the uninformed bidders. Such amendments only, when issued by the Contract Administrator will be considered as being binding on the County.

DETERMINATION OF RESPONSIBILITY

The Bidder has the burden of demonstrating affirmatively its responsibility in connection with this solicitation. A debarred potential bidder must automatically be considered non-responsible in connection with this solicitation. The County reserves the right to consider an bidder non-responsible who has previously failed to perform properly or to complete, in a timely manner, contracts of a similar nature, or if investigation shows the bidder unable to perform the requirements of the contract.

A Bidder may be requested at any time by the Director, Office of Procurement, or the Using Department to provide additional information, references and other documentation and information that relate to the determination of responsibility. Failure of a bidder to furnish requested information may constitute grounds for a finding of non-responsibility of the prospective bidder.

The Director may deny the award, renewal, or assignment of a contract to or for any bidder who is in default of payment of any money due the County.

The factors, which may be considered in connection with a determination of responsibility, include:

1. The ability, capacity, organization, facilities, and skill of the bidder to perform the contract or provide the goods or services required;
2. The ability of the bidder to perform the contract or provide the services within the time specified without delay, interruption or interference;
3. The integrity, reputation, and experience of the bidder, and its key personnel;
4. The quality of performance of previous contracts or services for the County or other entities. Past unsatisfactory performance, for any reason, is sufficient to justify a finding of non-responsibility;
5. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or services;
6. The sufficiency of financial resources of the bidder to perform the contract or provide the services;
7. The certification of an appropriate accounting system, if required by the contract type;
8. A bid bond and the bidder's evidence of ability to furnish a performance bond may be considered evidence of responsibility; and
9. Past debarment by the County or other entity.

QUALIFICATION OF BIDDERS

Bidders may be required to furnish satisfactory evidence that they are qualified and regularly engaged in performing the services for which they are submitting a bid and maintain a regularly established place of business. An authorized representative of the County may visit any prospective contractor's plant, place of business or place where the services are performed to determine ability, capacity, reliability, financial stability and other factors necessary to perform the contract. If so requested, an bidder may be required to submit information about its reputation, past performance, business and financial capability and other factors that demonstrate that the bidder is capable of satisfying the County's needs and requirements for a specific contract.

METHOD OF AWARD

This Informal Solicitation will be awarded to the bidder with the highest responsive and responsible bid as determined by the Director, Office of Procurement. The highest bid will be determined by the highest percentage commission set forth on the Quotation Sheet.

OR EQUAL INTERPRETATION

Identification of an item by manufacturer's name and model number is intended to be descriptive but not restrictive in that it is used for the purpose of describing the type, style, quality, performance and minimum specifications of the product desired, and shall not be interpreted to mean the only acceptable product. Bids on other makes and/or models will be considered provided the bidder clearly lists on the Quotation Sheet what is being proposed and forwards either with the bid, or within five calendar days after notification from the County, complete descriptive literature indicating the character of the article being offered and addressing all specifications of this solicitation. The County reserves the right to accept or reject, in its sole discretion, items offered as an "equal".

SAMPLES FOR EQUALS

Bidders must bid only one (1) product and one (1) price per bid item even though they feel they can offer more than one item that will meet the specifications. Bidders must determine for themselves which to offer. If a bidder submits more than one (1) product and/or more than one (1) price for a given item or items, it may be cause for the item or items bid upon to be considered non-responsive and rejected.

SAMPLES FOR EQUALS

When samples are required, it will be so indicated. Samples must be submitted so as to arrive at the designated location prior to the opening of bids and must be identified with the Name of the Bidder, Bid Number, and Bid Item

Number. Failure to properly identify samples may cause the bid to be considered nonresponsive. Samples shall be free of charge and delivered at the bidder's expense. The County will have the right to destroy, alter, or mutilate samples in examination for specification or performance compliance without charge from Bidder. Samples may be removed within ten (10) days after award. Samples may at the County's option be retained for the life of any subsequent contract period.

BIDDER'S PAYMENT TERMS

The County will reject as non-responsive a bid under this Solicitation, which is conditioned on payment of proper invoices in less than thirty (30) days. However, this does not preclude a bidder from bidding a prompt payment discount for payment of invoices in less than thirty (30) days.

MANDATORY SUBMISSIONS

- 1) The following items marked with an "X" must be included with the bid response in addition to any related attachments to this solicitation:

<input checked="" type="checkbox"/>	Solicitation, Bid and Award Sheet	<input checked="" type="checkbox"/>	Descriptive Literature	<input type="checkbox"/>	Wage Requirements Certification
<input type="checkbox"/>	Current Manufacturer catalog(s)	<input checked="" type="checkbox"/>	Delivery Schedule	<input type="checkbox"/>	Other: <u>Samples Upon Request</u>
<input checked="" type="checkbox"/>	Price List(s)	<input type="checkbox"/>	Bid Guarantee	<input checked="" type="checkbox"/>	Company Profile Attachment

- 2) The following items marked with an "X" must be submitted within ten (10) working days after the date of the County's written notification of Intent to Award a Contract:

<input checked="" type="checkbox"/>	Minority, Female, Disabled Person Subcontractor Performance Plan.	<input checked="" type="checkbox"/>	Certificate of Insurance	<input type="checkbox"/>	Performance Bond
<input type="checkbox"/>	Financial Data	<input type="checkbox"/>	Installation Schedules	<input type="checkbox"/>	Wage Requirements Certification of Posting Notice
<input type="checkbox"/>	Personnel Data	<input type="checkbox"/>	Plans or Drawings	<input type="checkbox"/>	

- 3) The following items marked with an "X" and any related attachments to this solicitation), are requested to be **submitted with your bid reply**:

<input checked="" type="checkbox"/>	Minority, Female, Disabled Person Subcontractor Performance Plan. (To ensure a contract can move forward as a result of this solicitation, the plan needs be submitted with your bid.)
<input type="checkbox"/>	Mid-Atlantic Purchasing Team Rider Clause
<input checked="" type="checkbox"/>	References (See Below)

Failure to submit information in a timely manner as indicated may be cause to consider the Bidder non responsible

SECTION II - REFERENCES

(must submit at least three)

You are requested to provide references to the County with your bid. The three (3) references must be from individuals or firms currently being serviced or supplied under similar contracts, or for whom work of a similar scope has been performed within the last year. Names for references shall be of individuals who directly supervised or had direct knowledge of the services or goods provided. Failure of an bidder to provide the County with references within the time frame as stated herein may result in the bidder being considered non-responsible.

NAME OF FIRM: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

CONTACT PERSON: _____ PHONE: _____

NAME OF FIRM: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

CONTACT PERSON: _____ PHONE: _____

NAME OF FIRM: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

CONTACT PERSON: _____ PHONE: _____

RFQ # 1147685

QUOTATION SHEET

On the space provided below, list the percentage of the net revenue your company will pay the County on all vending sales.

_____ %

COMPANY PROFILE ATTACHMENT

Provide below or on a separate page, an overview of the company to include qualifications and experience. Overview should include a description and photos of vending equipment, average age of vending machines, and current product list.

[illegible]

SECTION III – SPECIFICATIONS / SCOPE OF WORK

INTENT

The Montgomery County Department of Correction and Rehabilitation (DOCR) is seeking bids for vending machine services. It is the County's intent to enter into a contract with a qualified provider that has the experience and capability to provide the vending equipment, goods, and services.

SPECIFICATIONS / SCOPE

- A. The contractor must provide new or like new, vending equipment at no cost to the County. Machines must be located at the Montgomery County Correctional Facility (MCCF) located at 22880 Whelan Road, Boyds, MD 20841 and the Montgomery County Detention Center (MCDC), located at 1307 Seven Locks Road, Rockville, MD 20854, and the Pre-release and Reentry Services Center (PRRS) located at 11651 Nebel Street, Rockville, Maryland 20852 . There are:
- 2 soda/H2O machines, 2 snack/chips machines, and 1 combo with drinks and snacks at MCCF
 - 2 vending machines, 1soda and 1 snack/chips machine at MCDC.
 - 1 drink machine and 1 snack/chips machine at PRRS.
- B. All vending machines must be energy efficient and have a remote monitoring feature. The Contractor must ensure the machines comply with the requirements of the Americans with Disabilities Act. Machines must accept a combination of coins, dollar bills. Credit/debit cards payment method is optional. The Contractor is responsible for the refunds. The Contractor must attach its refund policy to all machines and provide contact information and instructions on how to obtain refunds.

Contractor's Responsibilities:

- A. All machines will be the property of the Contractor. The Contractor must maintain the machines in working order. Lost, stolen or damaged equipment must be replaced or repaired at no cost to the County. The Contractor must remove all machines upon the expiration, termination, or cancellation of the resulting contract.
- B. Stocking and replenishing machines must be done on a regularly scheduled basis. The Contractor must provide and maintain an adequate supply of merchandise for dispensing in the equipment provided. The Contractor must be responsible to provide an adequate routing schedule to ensure that merchandise is continuously available, and equipment is properly functioning. The Contractor must provide a schedule for when the machines will be serviced/replenished to the Deputy Warden of Facilities before the machines are placed at the DOCR facilities. Machines are to be replenished at least weekly, during the hours of 7am to 3pm, EST.
- C. Contractor must provide all necessary labor and supervision to accomplish the task detailed herein. Contractor's personnel must be adequately trained, present a professional appearance and be readily identifiable by uniform or identification badge as an employee of the Contractor while on County property.
1. Contractor must be responsible for the removal of all empty cartons and defective and spoiled products from the vending area to a waste disposal area designated by the County.
 2. All products must be monitored by Contractor to ensure out of date products are removed from the machines. Expiration dates should be visible on all products in the snack machines.
- D. The Contractor must provide a name, phone number, and email address of a contact person whom the County can contact regarding concerns with the machines. The contact person must be available during normal business hours and not be the person performing the weekly servicing of the machines. Phone calls and e-mails to this contact person must be acknowledged within 24 hours of the DOCR's call. Requests to service / repair machines must be addressed within forty-eight (48) hours upon receipt of the request from the DOCR to the Contractor. If equipment repairs cannot be made on-site and downtime is determined by the DOCR to be excessive, the Contractor must replace the equipment with a loaner until repairs are made or the Contractor replaces the machine.

- E. The Contractor must support the DOCR's efforts to promote healthy eating habits with healthier vending options for food and beverages. Contractor must comply with the nutrition standards to only offer products that conform to the requirements set forth below. Examples of foods and beverages that comply with these guidelines are found in the Appendix - Approved Products for Machines.
- a. Per the USDA Competitive Food Standards, 50% of individual SNACK products stocked in all machines must have:
 - a) No more than 200 calories per package
 - b) No more than 35 % of calories from total fat per package
 - 1) Nuts, seeds, nut/seed butters, and reduced fat cheese are exempt from the total fat standard
 - 2) Products consisting of only dried fruit with nuts and/or seeds with no added nutritive sweeteners or fats are exempt from the total fat standard (nuts and/or seeds roasted in oils are not exempt)
 - 3) Combination products are not exempt and must meet all the nutrient standards
 - c) No more than 10% of calories from saturated fat per package
 - 1) Reduced fat cheese (including part-skim Mozzarella) is from the saturated fat standard.
 - 2) Nuts and seeds and nut/seed butters are exempt from the saturated fat standard
 - 3) Products consisting of only dried fruit with nuts and/or seeds with no added nutritive sweeteners or fats are exempt from the saturated fat standard (nuts and/or seeds roasted in oils are not exempt)
 - 4) Combination products are not exempt and must meet all the nutrient standards
 - d) Zero grams of trans fat per item (0.5 gram per portion)
 - e) No more than 35% total weight of item (per package) from sugar and caloric sweeteners
 - 1) Dried whole fruits or vegetable, dried whole fruit or vegetable pieces, and dehydrated fruits or vegetables with no added nutritive sweeteners are exempt from the sugar standard.
 - 2) Products consisting of only exempt dried fruit with nuts, and /or seeds with no added nutritive sweeteners or fats are exempt from the sugar standard (nuts and/or seeds roasted in oils are not exempt)
 - f) No more than 200 mg sodium per item (prepackage)
 - g) For grain products, items must contain at least 50% whole grains by weight or have whole grains as the first ingredient.
 - h) For non-grain products the first ingredient must be one of the main food groups: fruits, vegetables, dairy, or proteins (meat, beans, poultry, seafood, eggs, nuts, seeds, etc.) or be a combination food that contains at least $\frac{3}{4}$ cup of fruits and/or vegetables
 - i) Sugar free chewing gum is exempt
 - b. In addition to meeting the USDA Competitive Food Standards, the following conditions apply to snacks:
 - a) Require at least 3 slots of dried whole fruits or vegetables, dried whole fruit or vegetable pieces, and dehydrated fruits or vegetables with no added nutritive sweeteners
 - b) Require at least 2 slots of nuts and/or seeds with no added nutritive sweeteners or fats
 - c) Preference will be given to products with 2 grams or more of fiber per serving
 - c. The following beverage products may be stocked in machines:
 - a) Plain water or plain carbonated water (no size limit)
 - b) Low fat (1%) milk and/or nutritionally equivalent milk alternative (soy/rice), unflavored
 - c) Non-fat milk and/or nutritionally equivalent milk alternatives (soy, rice), flavored or unflavored
 - d) 100% fruit/vegetable juice
 - e) 100% fruit/vegetable juice diluted with water (with-or without carbonation), with no added sweeteners
 - f) Diet teas, diet soda, and other low calorie beverages (less than 40 calories per 8 fluid ounces)
 - d. In addition to meeting the USDA Competitive Food Standards, the following conditions apply to beverages:
 - a) Requires at least 2 slots/buttons water
 - 1) Water should be calorie-free with no added color, flavor, or sweetener of any kind
 - 2) If drinking water is readily available in the vicinity of the vending machine, unflavored seltzer or flavored seltzer that use natural flavors with no added nutritive sweeteners or artificial sweeteners water may be substituted for the 2 slots of water

- b) A maximum of 5 slots/ buttons to stock high calorie beverages (more than 40 calories per 8 fluid ounces), such as sodas and 100% juice beverages. The 5 slot limit applies no matter how many slots are in the machine. High calorie beverages are required to be no more than 20 fluid ounces
 - c) Water and seltzer must be placed at eye level, or in the highest selling position and that high calorie beverages should be placed farthest from eye level, or in the lowest selling position
 - d) Calorie information must be posted for each beverage, as packaged
- F. Contractor must work with the DOCR to maintain 50% of the vending slots for healthier products and establish the timeframe to convert existing machines towards this goal. Upon six (6) months after the effective date of the contract, the DOCR and Contractor must review the sales/revenue data and out-of-date/spoilage costs, to determine if and/or what adjustments are required. The Contractor and the DOCR will establish a schedule for ongoing reviews to occur at least annually.

SECTION IV – PERFORMANCE PERIOD AND COMPENSATION

CONTRACT TERM

The term of the contract is for one (1) year from the date of signature by the Director, Office of Procurement. Before the contract term ends, the Director may (but is not required to) renew this contract, if the Director determines that renewal is in the best interests of the County. Contractor's satisfactory performance does not guarantee renewal of this Contract. The Director may exercise this option to renew for two (2) additional one-year periods.

COMPENSATION AND PRICES

- A. Contractor must provide a price list for all items that will be provided under the terms of this contract. Vending items are to be priced competitively. No approval from the County is required for price changes, provided that the price for products that don't meet the healthy standards is below \$2.00 and the price for products that meet the healthy standards is below \$3.00.
- B. A commission check must be issued to Montgomery County Government every three months (quarterly). The commission check should be sent to the Fiscal Services Manager, Montgomery County Correctional Facility, 22880 Whelan Lane, Boyds, MD 20841. The Contractor must include a quarterly year-to-date profit and loss statement, which includes gross and net sales figures and the number of vends per machine per day per vending location with the commission check. This statement must also include sales information about specific products. If items are not selling in appropriate quantities, a re-negotiation of products can occur, at no additional charge to the County.

SECTION V – SPECIAL TERMS AND CONDITIONS

GENERAL CONDITIONS

The General Conditions of Contract between County & Contractor (Attachment C) are incorporated and made part of this Request for Quotation and any resultant contract. However, paragraph 21, Insurance is superseded by the Mandatory Insurance Requirements in Attachment B.

MONTGOMERY COUNTY PROCUREMENT REGULATIONS

The Montgomery County Procurement Regulations are applicable to this Informal Solicitation and any contract awarded pursuant to this Informal Solicitation.

CONTRACT ADMINISTRATOR

1. AUTHORITY

The Director, Office of Procurement, is the delegated contracting officer. Therefore, the Director, Office of Procurement, must approve amendments, modifications, or changes to the terms, conditions, or minority, female, and disabled subcontractor plans in writing.

2. USING DEPARTMENT

The Contract Administrator shall be responsible for any contract resulting from this solicitation will be:

Rita Ellis, Department of Correction and Rehabilitation, 22880 Whelan Lane, Boyds, MD 20841
Rita.Ellis@montgomerycountymd.gov

METHOD OF ORDERING

It is the intention of the County to issue written purchase orders to the contractor. Issuance of all purchase orders will be contingent upon appropriation of funds by the Montgomery County Council and encumbrance of such funds after July 1 of each year, as provided by the Montgomery County Code.

NEW MATERIAL

Unless this contract specifies otherwise, the Contractor represents that the supplies and components are new and are not of such age or so deteriorated as to impair their usefulness or safety.

DELAYS AND EXTENSION OF TIME

If the Contractor is delayed at any time in the delivering of the items by any act or neglect of any separate contractor employed by the County, or by any changes ordered in the items, or by strikes, lockouts, fires, unusual delay in transportation, unavoidable casualties or any causes beyond the contractor's control, or by delay authorized by the County, the County shall decide the extent of such delay or the justification of any other delay, then the time of completion shall be extended for such reasonable time as the County may decide.

FAILURE TO PERFORM/DELIVER

In the event of a contractor's failure to comply with the established delivery schedule, the County reserves the right to make an open market purchase of the required materials and/or services, and to charge as damages, the difference between the established price and the actual cost incurred by the County and to collect such charges from the contractor, from any money due under this contract (purchase order), or any other contract (purchase order) with the County. Alternatively, the County may assess liquidated damages at the rate of 1% per day of the cost of such item or service for each day of delay beyond the established delivery date.

CORRECTION OF WORK AFTER FINAL PAYMENT

The Contractor shall remedy any defects due to faulty material. The County shall give notice of observed defects with reasonable promptness.

PROTECTION OF EXISTING FACILITIES

The Contractor shall take all necessary precautions during the period of service to protect existing County facilities from damage by the contractor, contractor's employees, subcontractor or subcontractor's employees and shall repair or replace, at the contractor's own expense, any damaged property caused by the contractor, contractor's employees, subcontractor, or subcontractor's employees.

RECYCLED MATERIALS AND PRODUCTS

It is the intention of Montgomery County to maximize the use of recycled materials and products. **Contractors are therefore requested to use, to all extent possible, recycled products in the performance of their services to the County**, i.e., invoices, reports, packaging, pallets, etc.

ADHERENCE TO SPECIFICATIONS AFTER AWARD

The County reserves the right to test/examine materials, equipment used for service and services delivered. If such test/examination reveals that the Contractor failed to conform to accepted standards or specifications in any way, the County may withhold payment for the services performed during the non-conformity period, until the Contractor corrects the problem(s).

MINORITY, FEMALE, DISABLED PERSON PROGRAM COMPLIANCE

Under County law, this solicitation may be subject to the Montgomery County Code, and the Montgomery County Procurement Regulations regarding participation in the Minority-Female-Disabled Person (MFD) procurement program. Further information regarding the County's MFD program is contained within this solicitation (see the provision entitled "Minority-Owned Business Addendum to The General Conditions of Contract between County and Contractor" and its companion document entitled "Minority, Female, Disabled Person Subcontractor Performance Plan").

SECURITY CHECKS, COMPLIANCE, AND TRAINING

The County reserves the right to screen and approve all personnel designated by the Contractor to provide the services indicated in this Invitation for Bid. If the County determines that any or all of the personnel are unacceptable, the Contractor must act to immediately provide acceptable replacement personnel. This action must not interfere with the provision of services as specified in this solicitation.

All personnel entering the correctional facilities operated by DOCR are subject to a security/criminal background check. The County will conduct a thorough criminal background check of the contractor and their employee(s) assigned to Perform services under the resulting contract. The County shall have the sole determination of the suitability of a potential contractor and their employee(s) to enter into and provide services in the County's facilities. Criminal background checks will be done at no cost to the contractor and their employee(s).

The Contractor must comply with the provisions of the Prison Rape Elimination Act (2003) and must follow the Prison Rape Elimination Act Standards (2011) in providing the services described herein.

PROPRIETARY & CONFIDENTIAL INFORMATION

This is to notify prospective offerors that the County has unlimited data rights regarding proposals submitted in response to its solicitations. Unlimited data rights mean that Montgomery County has the right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, or perform publicly and display publicly any information submitted by offerors in response to this or any solicitation issued by the County. However, information that is deemed to be confidential commercial or financial information as defined by the Maryland Information Act, State Government Article 10-617, will be exempted from disclosure if the submitter can show that release of such information would cause substantial competitive harm to the submitter's competitive position. It is the responsibility of the offeror to clearly identify each part of his/her offer that is confidential commercial or financial information by stamping the bottom right-hand corner of each pertinent page with one inch bold face letters stating the words "confidential" or "proprietary." The offeror agrees that any portion of the proposal that is not stamped as proprietary or confidential will be deemed not to be proprietary or confidential.

ETHICS

As a result of being awarded this contract the successful contractor may be ineligible for the award of related contracts. Montgomery County Code Sections 11B-52(b) and (c) state:

A contractor providing an analysis or recommendation to the County concerning a particular matter must not, without first obtaining the written consent of the Chief Administrative Officer:

- (1) Assist
 - (a) another party in the matter; or
 - (b) another person if the person has a direct and substantial interest in the matter; or
- (2) Seek or obtain an economic benefit from the matter in addition to payment to the contractor by the County.

Attachment A

GENERAL CONDITIONS OF CONTRACT BETWEEN COUNTY & CONTRACTOR

1. ACCOUNTING SYSTEM AND AUDIT, ACCURATE INFORMATION

The contractor certifies that all information the contractor has provided or will provide to the County is true and correct and can be relied upon by the County in awarding, modifying, making payments, or taking any other action with respect to this contract including resolving claims and disputes. Any false or misleading information is a ground for the County to terminate this contract for cause and to pursue any other appropriate remedy. The contractor certifies that the contractor's accounting system conforms with generally accepted accounting principles, is sufficient to comply with the contract's budgetary and financial obligations, and is sufficient to produce reliable financial information.

The County may examine the contractor's and any first tier subcontractor's records to determine and verify compliance with the contract and to resolve or decide any claim or dispute arising under this contract. The contractor and any first tier subcontractor must grant the County access to these records at all reasonable times during the contract term and for 3 years after final payment. If the contract is supported to any extent with federal or state funds, the appropriate federal or state authorities may also examine these records. The contractor must include the preceding language of this paragraph in all first tier subcontracts.

2. AMERICANS WITH DISABILITIES ACT

The contractor agrees to comply with the nondiscrimination requirements of Titles II and III, and other provisions, of the Americans with Disabilities Act of 1990, Pub. Law 101-336, and ADA Amendments Act of 2008, Pub. Law 110-325, as amended, currently found at 42 U.S.C., § 12101, et seq., and 47 U.S.C., ch. 5.

3. APPLICABLE LAWS

This contract must be construed in accordance with the laws and regulations of Maryland and Montgomery County. The Montgomery County Procurement Regulations are incorporated by reference into, and made a part of, this contract. In the case of any inconsistency between this contract and the Procurement Regulations, the Procurement Regulations govern. The contractor must, without additional cost to the County, pay any necessary fees and charges, obtain any necessary licenses and permits, and comply with applicable federal, state and local laws, codes and regulations. Through signature of this contract, the contractor certifies that the contractor has filed an initial statement with the Maryland State Board of Elections in compliance with MD Code Ann., Election Law, §14-104(b)(1), or is not required to file an initial statement as per MD Code Ann., Election Law, §14-104(c)(2).

For purposes of litigation involving this contract, except for contract Disputes discussed in paragraph 8 below, exclusive venue and jurisdiction must be in the Circuit Court for Montgomery County, Maryland or in the District Court of Maryland for Montgomery County.

The County's prevailing wage law, as found at §11B-33C of the County Code, applies to certain construction and mechanical systems service contracts. To the extent applicable, the County's prevailing wage requirements are enumerated within this solicitation/contract in the "Prevailing Wage Requirements for Construction Contract Addendum to the General Conditions of Contract between County and Contractor." If applicable to this contract, the Addendum will be attached to the contract, and will be incorporated herein by reference, and made a part thereof.

Furthermore, certain non-profit and governmental entities may purchase supplies and services, similar in scope of work and compensation amounts provided for in a County contract, using their own contract and procurement laws and regulations, pursuant to the Md. State Finance and Procurement Article, Section 13-101, et. seq.

Contractor and all of its subcontractors must comply with the provisions of County Code §11B-35A and must not retaliate against a covered employee who discloses an illegal or improper action described in §11B-35A. Furthermore, an aggrieved covered employee under §11B-35A is a third-party beneficiary under this Contract, who may by civil action recover compensatory damages including interest and reasonable attorney's fees, against the contractor or one of its subcontractors for retaliation in violation of that Section.

The contractor agrees to comply with the requirements of the Displaced Service Workers Protection Act, which appears in County Code, Chapter 27, Human Rights and Civil Liberties, Article X, Displaced Service Workers Protection Act, §§ 27-64 through 27-66.

Montgomery County's Earned Sick and Safe Leave Law, found at Sections 27-76 through 27-82 of the County Code, became effective October 1, 2016. An employer doing business in the County, as defined under the statute, must comply with this law. This includes an employer vendor awarded a County contract. A vendor may obtain information regarding this law at <http://www.montgomerycountymd.gov/humanrights/>

4. ASSIGNMENTS AND SUBCONTRACTS

The contractor must not assign or transfer this contract, any interest herein or any claim hereunder, except as expressly authorized in writing by the Director, Office of Procurement. Unless performance is separately and expressly waived in writing by the Director, Office of Procurement, an assignment does not release the contractor from responsibility for performance of this contract. Unless otherwise provided in the contract, the contractor may not contract with any other party for furnishing any of the materials or services herein contracted for without the written approval of the Director, Office of Procurement. Any subcontract for any work hereunder must comport with the terms of this Contract and County law, and must include any other terms and conditions that the County deems necessary to protect its interests. The contractor must not employ any subcontractor that is a debarred or suspended person under County Code §11B-37. The contractor is fully responsible to the County for the acts and omissions of itself, its subcontractors and any persons either directly or indirectly employed by them. Nothing contained in the contract documents shall create any contractual relation between any subcontractor and the County, and nothing in the contract documents is intended to make any subcontractor a beneficiary of the contract between the County and the contractor.

5. CHANGES

The Director, Office of Procurement, may unilaterally change the work, materials and services to be performed. The change must be in writing and within the general scope of the contract. The contract will be modified to reflect any time or money adjustment the contractor is entitled to receive. Contractor must bring to the Contract Administrator, in writing, any claim about an adjustment in time or money resulting from a change, within 30 days from the date the Director, Office of Procurement, issued the change in work, or the claim is waived. Any failure to agree upon a time or money adjustment must be resolved under the "Disputes" clause of this contract. The contractor must proceed with the prosecution of the work as changed, even if there is an unresolved claim. No charge for any extra work, time or material will be allowed, except as provided in this section.

6. CONTRACT ADMINISTRATION

A. The contract administrator, subject to paragraph B below, is the Department representative designated by the Director, Office of Procurement, in writing and is authorized to:

- (1) serve as liaison between the County and the contractor;
- (2) give direction to the contractor to ensure satisfactory and complete performance;

Attachment A

- (3) monitor and inspect the contractor's performance to ensure acceptable timeliness and quality;
- (4) serve as records custodian for this contract, including wage and prevailing wage requirements;
- (5) accept or reject the contractor's performance;
- (6) furnish timely written notice of the contractor's performance failures to the Director, Office of Procurement, and to the County Attorney, as appropriate;
- (7) prepare required reports;
- (8) approve or reject invoices for payment;
- (9) recommend contract modifications or terminations to the Director, Office of Procurement;
- (10) issue notices to proceed; and
- (11) monitor and verify compliance with any MFD Performance Plan.

B. The contract administrator is NOT authorized to make determinations (as opposed to recommendations) that alter, modify, terminate or cancel the contract, interpret ambiguities in contract language, or waive the County's contractual rights.

7. COST & PRICING DATA

Chapter 11B of the County Code and the Montgomery County Procurement Regulations require that cost & pricing data be obtained from proposed awardees/contractors in certain situations. The contractor guarantees that any cost & pricing data provided to the County will be accurate and complete. The contractor grants the Director, Office of Procurement, access to all books, records, documents, and other supporting data in order to permit adequate evaluation of the contractor's proposed price(s). The contractor also agrees that the price to the County, including profit or fee, may, at the option of the County, be reduced to the extent that the price was based on inaccurate, incomplete, or noncurrent data supplied by the contractor.

8. DISPUTES

Any dispute arising under this contract that is not disposed of by agreement must be decided under the Montgomery County Code and the Montgomery County Procurement Regulations. Pending final resolution of a dispute, the Contractor must proceed diligently with contract performance. Subject to subsequent revocation or alteration by the Director, Office of Procurement, the head of the County department, office or agency ("Department Head") of the contract administrator is the designee of the Director, Office of Procurement, for the purpose of dispute resolution. The Department Head, or his/her designee, must forward to the Director, Office of Procurement, a copy of any written resolution of a dispute. The Department Head may delegate this responsibility to another person (other than the contract administrator). A contractor must notify the contract administrator of a claim in writing, and must attempt to resolve a claim with the contract administrator prior to filing a dispute with the Director, Office of Procurement or designee. The contractor waives any dispute or claim not made in writing and received by the Director, Office of Procurement, within 30 days of the event giving rise to the dispute or claim, whether or not the contract administrator has responded to a written notice of claim or resolved the claim. The Director, Office of Procurement, must dismiss a dispute that is not timely filed. A dispute must be in writing, for specific relief, and any requested relief must be fully supported by affidavit of all relevant calculations, including cost and pricing information, records, and other information. At the County's option, the contractor agrees to be made a party to any related dispute involving another contractor.

9. DOCUMENTS, MATERIALS, AND DATA

All documents materials or data developed as a result of this contract are the County's property. The County has the right to use and reproduce any documents, materials, and data, including confidential information, used in the performance of, or developed as a result of, this contract. The County may use this information for its own purposes, including reporting to state and federal agencies. The contractor warrants that it has title to or right of use of all documents, materials or data used or developed in connection with this contract. The contractor must keep confidential all documents, materials, and data prepared or developed by the contractor or supplied by the County.

10. DURATION OF OBLIGATION

The contractor agrees that all of contractor's obligations and warranties, including all requirements imposed by the Minority Owned Business Addendum to these General Conditions, if any, which directly or indirectly are intended by their nature or by implication to survive contractor performance, do survive the completion of performance, termination for default, termination for convenience, or termination by mutual consent of the contract.

11. ENTIRE AGREEMENT

There are no promises, terms, conditions, or obligations other than those contained in this contract. This contract supersedes all communications, representations, or agreements, either verbal or written, between the parties hereto, with the exception of express warranties given to induce the County to enter into the contract.

12. ETHICS REQUIREMENTS/POLITICAL CONTRIBUTIONS

The contractor must comply with the ethics provisions contained in Chapters 11B and 19A, Montgomery County Code, which include the following:

- (a) a prohibition against making or offering to make certain gifts. Section 11B-51(a).
- (b) a prohibition against kickbacks. Section 11B-51(b).
- (c) a prohibition against a person engaged in a procurement from employing or offering to employ a public employee. Section 11B-52 (a).
- (d) a prohibition against a contractor that is providing a recommendation to the County from assisting another party or seeking to obtain an economic benefit beyond payment under the contract. Section 11B-52 (b).
- (e) a restriction on the use of confidential information obtained in performing a contract. Section 11B-52 (c).
- (f) a prohibition against contingent fees. Section 11B-53.

Furthermore, the contractor specifically agrees to comply with Sections 11B-51, 11B-52, 11B-53, 19A-12, and/or 19A-13 of the Montgomery County Code. In addition, the contractor must comply with the political contribution reporting requirements currently codified under the Election Law at Md. Code Ann., Title 14.

13. GUARANTEE

- A. Contractor guarantees for one year from acceptance, or for a longer period that is otherwise expressly stated in the County's written solicitation, all goods, services, and construction offered, including those used in the course of providing the goods, services, and/or construction. This includes a guarantee that all products offered (or used in the installation of those products) carry a guarantee against any and all defects for a minimum period of one year from acceptance, or for a longer period stated in the County's written solicitation. The contractor must correct any and all defects in material and/or workmanship that may appear during the guarantee period, or any defects that occur within one (1) year of acceptance even if discovered more than one (1) year after acceptance, by repairing, (or replacing with new items or new materials, if necessary) any such defect at no cost to the County and to the County's satisfaction.
- B. Should a manufacturer's or service provider's warranty or guarantee exceed the requirements stated above, that guarantee or warranty will be the primary one used in the case of defect. Copies of manufacturer's or service provider's warranties must be provided upon request.
- C. All warranties and guarantees must be in effect from the date of acceptance by the County of the goods, services, or construction.

Attachment A

- D. The contractor guarantees that all work shall be accomplished in a workmanlike manner, and the contractor must observe and comply with all Federal, State, County and local laws, ordinances and regulations in providing the goods, and performing the services or construction.
- E. Goods and materials provided under this contract must be of first quality, latest model and of current manufacture, and must not be of such age or so deteriorated as to impair their usefulness or safety. Items that are used, rebuilt, or demonstrator models are unacceptable, unless specifically requested by the County in the Specifications.

14. HAZARDOUS AND TOXIC SUBSTANCES

Manufacturers and distributors are required by federal "Hazard Communication" provisions (29 CFR 1910.1200), and the Maryland "Access to Information About Hazardous and Toxic Substances" Law, to label each hazardous material or chemical container, and to provide Material Safety Data Sheets to the purchaser. The contractor must comply with these laws and must provide the County with copies of all relevant documents, including Material Safety Data Sheets, prior to performance of work or contemporaneous with delivery of goods.

15. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) COMPLIANCE

In addition to the provisions stated above in Section 3. "Applicable Laws," contractor must comply with all requirements in the federal Health Insurance Portability and Accountability Act (HIPAA), to the extent that HIPAA is applicable to this contract. Furthermore, contractor must enter into the County's standard Business Associate Agreement or Qualified Service Organization Agreement when contractor or the County, as part of this contract, may use or disclose to one another, to the individual whose health information is at issue, or to a third-party, any protected health information that is obtained from, provided to, made available to, or created by, or for, the contractor or the County.

16. IMMIGRATION REFORM AND CONTROL ACT

The contractor warrants that both the contractor and its subcontractors do not, and shall not, hire, recruit or refer for a fee, for employment under this contract or any subcontract, an alien while knowing the alien is an unauthorized alien, or any individual without complying with the requirements of the federal Immigration and Nationality laws, including any verification and record keeping requirements. The contractor further assures the County that, in accordance with those laws, it does not, and will not, discriminate against an individual with respect to hiring, recruitment, or referral for a fee, of an individual for employment or the discharge of an individual from employment, because of the individual's national origin or, in the case of a citizen or prospective citizen, because of the individual's citizenship status.

17. INCONSISTENT PROVISIONS

Notwithstanding any provisions to the contrary in any contract terms or conditions supplied by the contractor, this General Conditions of Contract document supersedes the contractor's terms and conditions, in the event of any inconsistency.

18. INDEMNIFICATION

The contractor is responsible for any loss, personal injury, death and any other damage (including incidental and consequential) that may be done or suffered by reason of the contractor's negligence or failure to perform any contractual obligations. The contractor must indemnify and save the County harmless from any loss, cost, damage and other expenses, including attorney's fees and litigation expenses, suffered or incurred due to the contractor's negligence or failure to perform any of its contractual obligations. If requested by the County, the contractor must defend the County in any action or suit brought against the County arising out of the contractor's negligence, errors, acts or omissions under this contract. The negligence of any agent, subcontractor or employee of the contractor is deemed to be the negligence of the contractor. For the purposes of this paragraph, County includes its boards, agencies, agents, officials and employees.

19. INDEPENDENT CONTRACTOR

The contractor is an independent contractor. The contractor and the contractor's employees or agents are not agents of the County.

20. INSPECTIONS

The County has the right to monitor, inspect and evaluate or test all supplies, goods, services, or construction called for by the contract at all reasonable places (including the contractor's place of business) and times (including the period of preparation or manufacture).

21. INSURANCE

Prior to contract execution by the County, the proposed awardee/contractor must obtain at its own cost and expense the minimum insurance specified in the applicable table (See Tables A and B) or attachment to these General Conditions, with one or more insurance company(s) licensed or qualified to do business in the State of Maryland and acceptable to the County's Division of Risk Management. The minimum limits of coverage listed shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County, nor shall failure by the County to request evidence of this insurance in any way be construed as a waiver of proposed awardee/contractor's obligation to provide the insurance coverage specified. Contractor must keep this insurance in full force and effect during the term of this contract, including all extensions. Unless expressly provided otherwise, Table A is applicable to this contract. The insurance must be evidenced by one or more Certificate(s) of Insurance and, if requested by the County, the proposed awardee/contractor must provide a copy of any and all insurance policies to the County. At a minimum, the proposed awardee/contractor must submit to the Director, Office of Procurement, one or more Certificate(s) of Insurance prior to award of this contract, and prior to any contract modification extending the term of the contract, as evidence of compliance with this provision. The contractor's insurance must be primary. Montgomery County, MD, including its officials, employees, agents, boards, and agencies, must be named as an additional insured on all liability policies. Contractor must provide to the County at least 30 days written notice of a cancellation of, or a material change to, an insurance policy. In no event may the insurance coverage be less than that shown on the applicable table, attachment, or contract provision for required insurance. After consultation with the Department of Finance, Division of Risk Management, the Director, Office of Procurement, may waive the requirements of this section, in whole or in part.

Please disregard TABLE A. and TABLE B., if they are replaced by the insurance requirements as stated in an attachment to these General Conditions of Contract between County and Contractor.

Attachment A

TABLE A. INSURANCE REQUIREMENTS
(See Paragraph #21 under the General Conditions of Contract
between County and Contractor)

CONTRACT DOLLAR VALUES (IN \$1,000's)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>Over 1,000</u>
Workers Compensation (for contractors with employees)				
Bodily Injury by				
Accident (each)	100	100	100	See
Disease (policy limits)	500	500	500	Attachment
Disease (each employee)	100	100	100	
Commercial General Liability for bodily injury and property damage per occurrence, including contractual liability, premises and operations, and independent contractors	300 Attachment	500	1,000	See
Minimum Automobile Liability (including owned, hired and non owned automobiles)				
Bodily Injury				
each person	100	250	500	See
each occurrence	300	500	1,000	Attachment
Property Damage				
each occurrence	300	300	300	
Professional Liability* for errors, omissions and negligent acts, per claim and aggregate, with one year discovery period and maximum deductible of \$25,000	250	500	1,000	See Attachment

Certificate Holder
Montgomery County Maryland (Contract #)
Office of Procurement
27 Courthouse Square, Ste 330
Rockville, Maryland 20850

*Professional services contracts only

(Remainder of Page Intentionally Left Blank)

Attachment A

TABLE B. INSURANCE REQUIREMENTS
(See Paragraph #21 under the General Conditions of Contract
between County and Contractor)

	<u>Up to 50</u>	<u>Up to 100</u>	<u>Up to 1,000</u>	<u>1,000</u>
Commercial General Liability minimum combined single limit for bodily injury and property damage per occurrence, including contractual liability, premises and operations, independent contractors, and product liability	300	500	1,000	See Attachment

Certificate Holder
Montgomery County Maryland (Contract #)
Office of Procurement
27 Courthouse Square, Ste 330
Rockville, Maryland 20850

(Remainder of Page Intentionally Left Blank)

Attachment A

22. INTELLECTUAL PROPERTY APPROVAL AND INDEMNIFICATION - INFRINGEMENT

If contractor will be preparing, displaying, publicly performing, reproducing, or otherwise using, in any manner or form, any information, document, or material that is subject to a copyright, trademark, patent, or other property or privacy right, then contractor must: obtain all necessary licenses, authorizations, and approvals related to its use; include the County in any approval, authorization, or license related to its use; and indemnify and hold harmless the County related to contractor's alleged infringing or otherwise improper or unauthorized use. Accordingly, the contractor must protect, indemnify, and hold harmless the County from and against all liabilities, actions, damages, claims, demands, judgments, losses, costs, expenses, suits, or actions, and attorneys' fees and the costs of the defense of the County, in any suit, including appeals, based upon or arising out of any allegation of infringement, violation, unauthorized use, or conversion of any patent, copyright, trademark or trade name, license, proprietary right, or other related property or privacy interest in connection with, or as a result of, this contract or the performance by the contractor of any of its activities or obligations under this contract.

23. INFORMATION SECURITY

A. Protection of Personal Information by Government Agencies:

In any contract under which Contractor is to perform services and the County may disclose to Contractor personal information about an individual, as defined by State law, Contractor must implement and maintain reasonable security procedures and practices that: (a) are appropriate to the nature of the personal information disclosed to the Contractor; and (b) are reasonably designed to help protect the personal information from unauthorized access, use, modification, disclosure, or destruction. Contractor's requirement to implement and maintain reasonable security practices and procedures must include requiring any third-party to whom it discloses personal information that was originally disclosed to Contractor by the County to also implement and maintain reasonable security practices and procedures related to protecting the personal information. Contractor must notify the County of a breach of the security of a system if the unauthorized acquisition of an individual's personal information has occurred or is reasonably likely to occur, and also must share with the County all information related to the breach. Contractor must provide the above notification to the County as soon as reasonably practicable after Contractor discovers or is notified of the breach of the security of a system. Md. Code Ann., State Gov't. § 10-1301 through 10-1308 (2013).

B. Payment Card Industry Compliance:

In any contract where the Contractor provides a system or service that involves processing credit card payments (a "Payment Solution"), the Payment Solution must be Payment Card Industry Data Security Standard Compliant ("PCI-DSS Compliant"), as determined and verified by the Department of Finance, and must (1) process credit card payments through the use of a Merchant ID ("MID") obtained by the County's Department of Finance by and in the name of the County as merchant of record, or (2) use a MID obtained by and in the name of the Contractor as merchant of record.

24. NON-CONVICTION OF BRIBERY

The contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under any federal, state, or local law.

25. NON-DISCRIMINATION IN EMPLOYMENT

The contractor agrees to comply with the non-discrimination in employment policies and/ or provisions prohibiting unlawful employment practices in County contracts as required by Section 11B 33 and Section 27 19 of the Montgomery County Code, as well as all other applicable state and federal laws and regulations regarding employment discrimination.

The contractor assures the County that, in accordance with applicable law, it does not, and agrees that it will not, discriminate in any manner on the basis of race, color, religious creed, ancestry, national origin, age, sex, marital status, disability, or sexual orientation.

The contractor must bind its subcontractors to the provisions of this section.

26. PAYMENT AUTHORITY

No payment by the County may be made, or is due, under this contract, unless funds for the payment have been appropriated and encumbered by the County. Under no circumstances will the County pay the contractor for legal fees, late fees, or shipping fees that are not provided for in the contract. The contractor must not proceed to perform any work (provide goods, services, or construction) prior to receiving written confirmation that the County has appropriated and encumbered funds for that work. If the contractor fails to obtain this verification from the Office of Procurement prior to performing work, the County has no obligation to pay the contractor for the work.

If this contract provides for an additional contract term for contractor performance beyond its initial term, continuation of contractor's performance under this contract beyond the initial term is contingent upon, and subject to, the appropriation of funds and encumbrance of those appropriated funds for payments under this contract. If funds are not appropriated and encumbered to support continued contractor performance in a subsequent fiscal period, contractor's performance must end without further notice from, or cost to, the County. The contractor acknowledges that the County Executive has no obligation to recommend, and the County Council has no obligation to appropriate, funds for this contract in subsequent fiscal years. Furthermore, the County has no obligation to encumber funds to this contract in subsequent fiscal years, even if appropriated funds may be available. Accordingly, for each subsequent contract term, the contractor must not undertake any performance under this contract until the contractor receives a purchase order or contract amendment from the County that authorizes the contractor to perform work for the next contract term.

27. P-CARD OR SUA PAYMENT METHODS

The County is expressly permitted to pay the vendor for any or all goods, services, or construction under the contract through either a procurement card ("p-card") or a Single Use Account ("SUA") method of payment, if the contractor accepts the noted payment method from any other person. In that event, the County reserves the right to pay any or all amounts due under the contract by using either a p-card (except when a purchase order is required) or a SUA method of payment, and the contractor must accept the County's p-card or a SUA method of payment, as applicable. Under this paragraph, contractor is prohibited from charging or requiring the County to pay any fee, charge, price, or other obligation for any reason related to or associated with the County's use of either a p-card or a SUA method of payment.

28. PERSONAL PROPERTY

All furniture, office equipment, equipment, vehicles, and other similar types of personal property specified in the contract, and purchased with funds provided under the contract, become the property of the County upon the end of the contract term, or upon termination or expiration of this contract, unless expressly stated otherwise.

29. TERMINATION FOR DEFAULT

The Director, Office of Procurement, may terminate the contract in whole or in part, and from time to time, whenever the Director, Office of Procurement, determines that the contractor is:

- (a) defaulting in performance or is not complying with any provision of this contract;
- (b) failing to make satisfactory progress in the prosecution of the contract; or
- (c) endangering the performance of this contract.

Attachment A

The Director, Office of Procurement, will provide the contractor with a written notice to cure the default. The termination for default is effective on the date specified in the County's written notice. However, if the County determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the County may terminate the contract immediately upon issuing oral or written notice to the contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or the contract, the contractor must compensate the County for additional costs that foreseeably would be incurred by the County, whether the costs are actually incurred or not, to obtain substitute performance. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

30. TERMINATION FOR CONVENIENCE

This contract may be terminated by the County, in whole or in part, upon written notice to the contractor, when the County determines this to be in its best interest. The termination for convenience is effective on the date specified in the County's written notice. Termination for convenience may entitle the contractor to payment for reasonable costs allocable to the contract for work or costs incurred by the contractor up to the date of termination. The contractor must not be paid compensation as a result of a termination for convenience that exceeds the amount encumbered to pay for work to be performed under the contract.

31. TIME

Time is of the essence.

32. WORK UNDER THE CONTRACT

Contractor must not commence work under this contract until all conditions for commencement are met, including execution of the contract by both parties, compliance with insurance requirements, encumbrance of funds, and issuance of any required notice to proceed.

33. WORKPLACE SAFETY

The contractor must ensure adequate health and safety training and/or certification, and must comply with applicable federal, state and local Occupational Safety and Health laws and regulations.

THIS FORM MUST NOT BE MODIFIED WITHOUT THE PRIOR APPROVAL OF THE OFFICE OF THE COUNTY ATTORNEY.

Attachment B

MANDATORY INSURANCE REQUIREMENTS – Vending Machine Services – MCCF & MCDC

Prior to the execution of the contract by the County, the proposed awardee/contractor and their contractors (if requested by County) must obtain, at their own cost and expense, the following *minimum* (not maximum) insurance coverage with an insurance company/companies licensed to conduct business in the State of Maryland and acceptable to the Division of Risk Management. This insurance must be kept in full force and effect during the term of this contract, including all extensions. The insurance must be evidenced by a certificate of insurance, and if requested by the County, the proposed awardee/contractor shall provide a copy of the insurance policies and additional insured endorsements. The minimum limits of coverage listed below shall not be construed as the maximum as required by contract or as a limitation of any potential liability on the part of the proposed awardee/contractor to the County nor shall failure to request evidence of this insurance in any way be construed as a waiver of proposed awardee / contractor's obligation to provide the insurance coverage specified. The Contractor's insurance shall be primary. Coverage pursuant to this Section shall not include any provision that would bar, restrict, or preclude coverage for claims by Montgomery County against Contractor, including but not limited to "cross-liability" or "insured vs insured" exclusion provisions.

Commercial General Liability

A minimum limit of liability of **one million dollars (\$1,000,000)**, each occurrence, for bodily injury and property damage coverage per occurrence including the following coverages:

- Contractual Liability
- Premises and Operations
- Independent Contractors
- Products and Completed Operations

Automobile Liability Coverage

A minimum limit of liability of **one million dollars (\$1,000,000)**, each occurrence, for bodily injury and property damage coverage per occurrence including the following:

- owned automobiles
- hired automobiles
- non-owned automobiles

Workers' Compensation/Employer's Liability

Meeting all statutory requirements of the State of Maryland Law and with the following minimum Employers' Liability limits:

- Bodily Injury by Accident - \$100,000 each accident***
- Bodily Injury by Disease - \$500,000 policy limits***
- Bodily Injury by Disease - \$100,000 each employee***

Crime Policy - Broad Form

A policy for Crime coverage, to include acts of Employee Dishonesty shall be carried for the benefit of the County and the contractor in the following amounts:

\$30,000

Contractor will be responsible for the deductible.

Additional Insured

Montgomery County, Maryland, its elected and appointed officials, officers, consultants, agents and employees, must be included as an additional insured on an endorsement to Contractor's commercial general, automobile insurance, and contractor's excess/umbrella insurance policies if used to satisfy the Contractor's minimum insurance requirements under this contract, for liability arising out of contractor's products, goods and services provided under this contract. The stipulated limits of coverage above shall not be construed as a limitation of any potential liability of the contractor.

Policy Cancellation

Should any of the above policies be cancelled before the expiration date thereof, written notice must be delivered to the County in accordance with the policy provisions.

Certificate Holder

Montgomery County, Maryland
Department of Correction and Rehabilitation / Rita Ellis
22880 Whelan Lane
Boys, Maryland

APPENDIX – APPROVED PRODUCTS FOR MACHINES

Each Machine should have at least 50% of the vending choices meet the Healthy Vending Product or the USDA Competitive Food Standards (see specifications above under HEALTHY VENDING PRODUCT SPECIFICATIONS)

The following is an Approved Beverage/Product/Specifications list and should be used as a guide:

Product/Portion Size(ounces)/Specifications
100% Juice (≤ 16 fl. oz.)
Seltzer (any size)
Water (any size)
Flavored Water (≤ 20 fl. oz.)
Regular Soda (Coke or Pepsi) (≤ 20 fl. oz.)
Diet or Unsweetened Tea (≤ 20 fl. oz.)
Diet Mountain Dew (≤ 20 fl. oz.)
Diet Dr. Pepper (≤ 20 fl. oz.)
Coke Zero (≤ 20 fl. oz.)
Diet Coke (≤ 20 fl. oz.)
Diet Pepsi (≤ 20 fl. oz.)
Diet Sprite (≤ 20 fl. oz.)
Sprite Zero (≤ 20 fl. oz.)

The following is an Approved Snack Product/Specification list and should be used as a guide:

Type	Product/Portion Size(ounces)/Specifications
Bars	Enjoy Life Cocoa Loco Chewy Bar (1 oz.)
Bars	Fiber 1 Oats & Chocolate (1.4 oz.)
Bars	Kellogg NutriGrain Blueberry or Strawberry
Bars	Kind Bar Fruit & Nut (1.4 oz.)
Bars	Nature Valley Chewy Oatmeal Raisin Bar (.89 oz.)
Bars	Nature Valley Oats & Honey (1.5 oz.)
Bars	Snickers Marathon Smart Stuff Crunchy Multigrain (1.23 oz.)
Bars	Quacker Chewy Chocolate Chip (1.5 oz.)
Bars	Quacker Chewy Rocky Road or S'mores Granola Bar (.9 oz.)
Candy	Snickers (2.07 oz.)
Chips	Baked Lays BBQ or Sour Cream & Onion (.88 oz.)
Chips	Baked Lays Original or Southwestern Ranch (1 oz.)
Chips	Baked Lays Tostitos Scoops (1 oz.)
Chips	Herr's Baked Potato Chips, Original (1 oz.)
Chips	Kashi Hummus Crisp (Caramelized Onion or Sundried Tomato Basil & Feta (.81 oz.)
Chips	Lay's classic (1.5 oz.)
Chips	Popchips Kettle (.9 oz.) (this size and flavor only)
Chips	PopCorners Kettle, Caramel or Sea Salt (1.1 oz.) (not the other flavors)
Chips	Reduced Fat Doritos (1oz.) (cool ranch, nacho cheese, or sweet chili)
Chips	Smartfood Selects (1 oz.) (Cinnamon Brown Sugar Chips)
Chips	Special K Cracker Chips (.87 oz.) (sea salt, sour cream & onion, southwest ranch)
Chips	Stacy's Pita Chips Cinnamon Sugar (1.5 oz.)
Chips	Sun chips Original (1.5 oz.)
Cookies	100 Calorie Oreo Thins or Chips Ahoy (.81 oz.)
Cookies	Pure Organic Chocolate Brownie (1.7 oz.)
Cookies	Betty Crocker Oatmeal Butterscotch (1.24 oz.)
Cookies	Larabar Cherry Pie

Type	Product/Portion Size(ounces)/Specifications
Cookies	Grandma's Big Oatmeal Raisin (2.5 oz.)
Cookies	Snackwells (1.7 oz.)
Crackers	Campbell soup CO. Cheddar Goldfish Crackers made with Whole Grain (.7 oz.)
Crackers	Honey Maid Lil' Squares Cinnamon (1.06 oz.)
Crackers	Lays Munch Cheese PB Cracker (1.42 oz.)
Crackers	Simply Chex Chocolate Caramel (1.2 oz.)
Crackers	Smart Foods 4 Schools Whole Grain Cinnamon (1oz.)
Crackers	Wheat Thins (1oz.)
Fruit	Bare Fruit All-Natural Apple chips(1.69 oz.) (Cinnamon, Fuji Red, Granny Smith)
Fruit	Much-Ado-About-Mango Peeled (1.4 oz.)
Fruit	Sensible Foods Crunch Snacks (.42 oz.) (Strawberry Banana, Orchard Blend, Fuli Apple)
Fruit	Sensible Foods Fruit Snacks (.75 oz.) (Apple Harvest, Tropical Blend, Cherry Berry)
Fruit	Funky Monkey Fruit Snack (1oz.) (Carneval, Bananamon, Purple Funk, MangOJ)
Nuts	Kar Nuts Original Unsalted Trail Mix (2 oz.)
Nuts	Kar's Nuts Brown Sugar Granola Trail Mix (1oz.)
Nuts	Mrs. Mays (2 oz.)(Almond Crunch or Cran-Blueberry Crunch)
Nuts	Planters Lightly salted Peanuts (2 oz.)
Popcorn	Pirates Booty (1 oz.)
Popcorn	Popcorn Indiana (1 oz.)
Popcorn	Vic's White Cheddar Popcorn (.6 oz.)
Pretzels	Rold Gold Heartzels Pretzels (.7 oz.)
Pretzels	Snyder's Sourdough Specials (1.8 oz.)
Seeds	David Pumpkin Seeds (.75 oz.)
Seeds	David Sunflower Seeds (.9 oz.)
Vegetable	Sensible Foods Organic Sweet Corn Snack (.75 oz.)
Vegetable	Sensible Foods Roasted Edamame crunch Snack (.75 oz.)